

REMARKS

Claims 1-50 remain pending in the application, with claims 13-19 and 32-38 being withdrawn from consideration.

The Applicants respectfully request the Examiner to reconsider earlier rejections in light of the following remarks. No new issues are raised nor is further search required as a result of the changes made herein. Entry of the Amendment is respectfully requested.

Claims 1-5, 9, 20-24, 28, 39-43 and 47 over Bunney

In the Office Action, claims 1-5, 9, 20-24, 28, 39-43 and 47 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Bunney et al., U.S. Patent No. 6,446,112 ("Bunney"), with claims 12, 31 and 50 rejected under 35 U.S.C. §103(a) as allegedly being obvious over Bunney. The Applicants respectfully traverse the rejection.

Claims 1-5, 9, 12, 20-24, 28, 31, 39-43, 47 and 50 recite a method and system wherein a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server.

Bunney appears to disclose a network comprising at least one server and a plurality of user terminals, wherein the user terminals can communicate with each other by means of an IRC server (Abstract). Bunney's purpose is to translate a non-compliant IRC address to a compliant protocol IRC code with a maximum length of nine characters to extend the capabilities of existing nine character protocol systems (Abstract). Bunney discloses such a protocol conversion for a server hardwired to user terminals through an Internet network (Bunney, col. 5, lines 15-17; Fig. 1, 2 and 5).

Bunney discloses a proxy server used to facilitate the conversion of a non-compliant IRC address to a compliant protocol IRC code. As shown in Bunney's Fig. 5, a mobile device communicates with a standard Internet Relay Chat server through the chat proxy server, with all connections between the mobile device being directed through the chat proxy server. Bunney fails to

disclose or suggest a method and system wherein a first mobile device bypasses a mobile chat proxy server, i.e., a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server, as recited by claims 1-5, 9, 20-24, 28, 39-43 and 47.

The Examiner alleges that Bunney discloses the end user terminal can be telephones, televisions and personal digital assistant devices at col. 3, lines 18-21 (Office Action, page 2). The Examiner further alleges that Bunney therefore clearly does not limit the type of connection between the server and the user terminals (Office Action, page 2). The Applicants respectfully disagree.

The Examiner is pointing to three examples of devices that an end user terminal can be, NOT three types of connections. Therefore, Bunney discloses a variety of devices that can be connected to a chat proxy server, NOT disclosing or suggest any other type of connection than the one disclosed with Bunney, i.e., a hardwired connection.

The Examiner further alleges that it is well known in the art that a telephone device is connected to the Internet via a wireless gateway associated with a device's provider, with the wireless gateway allegedly inherent in the teaching of Bunney in order to connect to the Internet (Office Action, page 3). The Applicants respectfully disagree.

The Examiner is taking an alleged suggestion within Bunney of a wireless connection, that Applicants discussed above is unsupported, and goes on to allege that an element require for that alleged suggestion is inherent. According to *In re Oelrich*, 212 USPQ 323 (CCPA, 1981), the use of "inherency" is only available when the inherency can be established as a certainty, with probability not being sufficient. Bunney fails to disclose a probability of application of the Bunney to a wireless network, much less a certainty of application of the Bunney to a wireless network using a wireless gateway.

Accordingly, for at least all the above reasons, claims 1-5, 9, 20-24, 28, 39-43 and 47 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Claims 1-12, 20-31 and 39-50 over Burgan in view of Bunney and WebTV

In the Office Action, claims 1-12, 20-31 and 39-50 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Burgan et al., U.S. Patent No. 6,459,892 (“Burgan”) in view of Bunney, and further in view of WebTV to IRC Proxy debuts on SorceryNet, USENET posting in atl.online-service.webtv 10/18/1999 (“WebTV”). The Applicants respectfully traverse the rejection.

The Examiner alleges the WebTV article clearly has the creation date stamp from the posting server as “Mon Oct 18 19:31:59 1999 GMT” indicating the article was posted, and hence was publicly available on that date (Office Action, page 3).

As the Applicants previously argued, WebTV is sourced from the Internet, and as such, there is no way to verify the source and date of the publication. The Examiner alleges that the date of creation is clear, however, anyone can take the same article and post it on the Internet with a date of, e.g., Mon Oct 18 19:31:59 1929 GMT. With the Examiner’s reasoning, the article then would get a 1929 creation date before the invention of the computer itself. Although this example is extreme, it stresses the fact that since the WebTV article’s publisher and date can not be confirmed, any rejection relying on WebTV is an improper rejection under 35 U.S.C. §103(a). However, to further prosecution Applicants AGAIN herein respond to WebTV.

Claims 1-12, 20-31 and 39-50 recite a method and system wherein a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server.

Burgan appears to disclose a wireless communication system that includes a system controller, a chat server and a plurality of wireless communication devices (Abstract; Fig. 1). The chat server manages the communication of a plurality of chat discussions facilitating substantially real time communication among the plurality of wireless communication devices (Burgan, Abstract). The chat server receives a chat request and in response to such receipt, sends a chat response (Burgan, col. 3, lines 65-66). The chat request is

communicated to the chat server via a server interface from a system controller and the chat response is communicated via the server interface to the system controller (Burgan, col. 3, line 67-col. 4, line 3). The system controller then routes the chat response to the requesting device which may be a message input device such as a telephone, a computer, a desktop messaging unit or an individual or wireless communication device (Burgan, col. 4, lines 4-10).

Although Burgan discloses chat functions between wireless devices, the relativity to Applicants' invention stops there. All of the chat functions must occur within the wireless network. Burgan fails to even mention the Internet. Burgan fails to suggest modification of the system to includes an Internet chat proxy server, much less disclose or suggest a method and system wherein one mobile device accesses a chat function in one way while a second mobile device access a chat function in a second way, i.e., a method and system wherein a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server, as recited by claims 1-12, 20-31 and 39-50.

The Examiner acknowledges that Burgan fails to disclose a mobile chat proxy server connected to a standard Internet Relay Chat server (Office Action, page 5). However, the Office Action relies on Bunney and WebTV to allegedly make up for the deficiencies in Burgan to arrive at the claimed invention. The Applicants respectfully disagree.

As discussed above, Bunney has limited relativity to the Applicants' invention in that both have application to IRC. However, Bunney's IRC server 40, and a chat proxy server 1 are disclosed as for use in a hardwired system. Bunney fails to disclose or suggest a mobile chat proxy server and a wireless gateway server, much less a method and system wherein a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server, as recited by claims 1-12, 20-31 and 39-50.

WebTV appears to disclose a method of allowing WebTV subscribers access to an IRC network. An IRC proxy, SorceryNet, converts user commands to appropriate IRCD commands.

WebTV, as discussed above with Bunney, is a hardwired Internet connection. WebTV's only relevancy to Applicants' invention is that they both have application to IRC. However, the similarity stops there. Applicants' invention is directed toward mobile and wireless devices, NOT a device that is attached to a television that dials-up the Internet. WebTV fails to disclose or suggest application to mobile and wireless devices, much less a method and system wherein a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server, as recited by claims 1-12, 20-31 and 39-50.

"Teachings of references can be combined only if there is some suggestion or incentive to do so." *In re Fine*, 5 USPQ2d 1596,1600 (Fed. Cir. 1988) (quoting *ACS Hosp. Sys. v. Montefiore Hosp.*, 221 USPQ 929, 933 (Fed. Cir. 1984)) (emphasis in original). Modifying Burgan, a wireless chat system, with Bunney and WebTV, hardwired chat systems, is not suggested by Burgan, Bunney nor WebTV since it is non-sensical. Any modification of Burgan with components from Bunney and WebTV would most likely leave Burgan non-functional. Modifying a wireless system with components from a wired system would result in a system trying to operate with components NOT designed for that environment, most likely leaving the entire system inoperable.

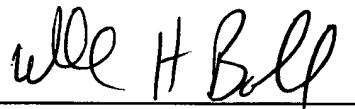
Neither Burgan, Bunney nor WebTV (even if it were a proper reference), either alone or in combination, disclose, teach or suggest a method and system wherein a first mobile device communicates with a standard Internet Relay Chat server through a mobile chat proxy server and a second mobile device communicates with the standard Internet Relay Chat server while bypassing the mobile chat proxy server, as claimed by claims 1-12, 20-31 and 39-50.

Accordingly, for at least all the above reasons, claims 1-12, 20-31 and 39-50 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'William H. Bollman', written over a horizontal line.

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